

William S. Camell  
202-637-2244  
william.camell@lw.com

555 Eleventh Street, N.W., Suite 1000  
Washington, D.C. 20004-1304  
Tel: (202) 637-2200 Fax: (202) 637-2201  
www.lw.com

## LATHAM & WATKINS<sup>LLP</sup>

### FIRM / AFFILIATE OFFICES

Boston	New Jersey
Brussels	New York
Chicago	Northern Virginia
Frankfurt	Orange County
Hamburg	Paris
Hong Kong	San Diego
London	San Francisco
Los Angeles	Silicon Valley
Milan	Singapore
Moscow	Tokyo
	Washington, D.C.

File No. 036173-0000

November 5, 2003

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: CC Dkt No. 94-102: Notice of *ex parte* Presentation

Dear Ms. Dortch:

On November 4-5, 2003, Jon Bucci, Michelle Avary and Robert Chiapetta of Toyota Motor North America, Inc., and the Jim Barker and the undersigned of Latham & Watkins, LLP, counsel to Toyota, met separately with (i) Commissioner Abernathy and Jennifer Manner; (ii) Commissioner Copps and Paul Margie; (iii) Commissioner Adelstein and Barry Ohlson; (iv) Sheryl Wilkerson; and (v) Sam Feder.

The participants discussed the enclosed slide presentation. Representatives of Toyota stressed the difficulties associated with E911 regulation of telematics units, but stated that Toyota will strive to reach compliance for any "personal calling" features that it may offer, in accordance with the Commission's OnStar order. Mr. Chiapetta stated that the industry is engaged in an active dialog as to how best to achieve its mutual goal of maximizing safety and security, and that this working group will meet in Minnesota later this month. The participants also discussed the points of clarification raised in Toyota's *ex parte* letter filed in this docket on November 3, 2003.

In accordance with the Commission's rules I am filing this notice electronically in the above-referenced docket. Please feel free to contact the undersigned should you have any questions.

LATHAM & WATKINS<sup>LLP</sup>

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. S. Carnell', with a long horizontal flourish extending to the right.

William S. Carnell  
of LATHAM & WATKINS LLP

Enclosure

cc: Commissioner Kathleen Abernathy  
Commissioner Michael Copps  
Commissioner Jonathan Adelstein  
Jennifer Manner  
Paul Margie  
Barry Ohlson  
Sheryl Wilkerson  
Sam Feder

# TOYOTA

---

**FCC Revision of the Commission's Rules to  
Ensure Compatibility with Enhanced 911  
Emergency Calling Systems  
(CC Docket No. 94-102)**

*Ex Parte Presentation*

November 3-4, 2003



# Toyota has been offering telematics on select Lexus vehicles since 2000

---

- Toyota: One of the leading car manufacturers in the U.S. and in the world
- Lexus Link: The telematics service offered in certain Lexus vehicles
  - Toyota and Lexus manufacture the embedded telematics equipment based on OnStar design specifications
  - OnStar provides the underlying telematics call center service



# Telematics provides valuable emergency services

---

- Provides always-on, ubiquitous coverage
- Offers detailed location information TODAY
  - Greater accuracy than E911 requirements<sup>1</sup>
  - Delivers information regardless of PSAP readiness
- Automatic collision notification (A.C.N.): even when the victim cannot speak
- The emergency care community agrees:
  - ComCare Alliance: The “policy objective of promoting safety...means promoting the wide deployment of telematics”



<sup>1</sup> See OnStar's Comments to Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 <sup>2</sup> Emergency Calling Systems, CC Dkt No. 94-102, IB Dkt No. 99-67 (rel. Dec. 20 2002), at 9.

# Telematics benefits drivers in all types of situations

---

- Features that benefit safety and security
  - A.C.N.
  - Emergency services
  - Accident assist
  - Roadside assistance
  - Ride assist
  - Stolen vehicle tracking
- Features that add to quality of life
  - Concierge services
  - Information services
  - Route guidance
  - Remote door unlock



***Some calls are considered “emergencies” by the driver such as a flat tire that do not require PSAP assistance***

# Regulation would be burdensome and potentially detrimental

---

- E911 rules were designed for mobile telephone, not embedded telematics
- Compliance would require a total re-design
  - Concern for legacy customer satisfaction
- Very high cost of re-design and of new equipment
- Possible that some providers might exit from telematics rather than endure expense of re-design



*Net effect: costlier telematics, fewer subscribers*

# Long time horizon to ensure product safety

---

- Three-year design cycle
  - From drawing board to showroom
- Five-year product cycle
  - Time between major re-designs
- Long vehicle life span
  - 10+ years
- Telematics equipment is already in the midst of a major re-design from analog to digital



*A fundamental change to telematics equipment and services  
would take many years to complete*



# No clear benefit from regulation

---

- No evidence of any problem with existing systems and methods
- No evidence of customer confusion over how their calls will be routed
- No evidence of *any* benefit to be gained through regulation
  - APCO: “such a federal requirement is neither necessary nor appropriate at this time.”



# Questionable jurisdiction

---

- Not a “Commercial Mobile Service” under Sections 3 and 332
  - Not “interconnected”
  - Not made “available to a substantial portion of the public”
    - Sold only in bundle with cars; no choice of provider
- Telematics is an information service that “makes use of” telecommunications services



# Clarification of OnStar *Order*

---

- Applicability:
  - Only “Personal Calling” services should be subject to E911 compliance
    - Personal calling is defined as the ability to directly dial out to a number of the user’s choosing without assistance
  - Waiver should apply to all telematics units to which the regulation applies
- Retroactivity:
  - Units installed before 1/1/06 should be exempt.



# Timing in *OnStar Order*

---

- Every manufacturer and provider is different
  - Services typically need to be rolled out in phases
- OnStar's timetable may not work for Toyota
  - Toyota engineers are working with OnStar on E911 compliant hardware



# Other Issues in the *Further Notice*

---

- “Direct Relay” between Call Center and PSAP is unwarranted and jurisdictionally dubious
  - Not even the PSAPs want this
  - Automotive OEMs, TSPs, and the Emergency Response community are working together on key issues
- FCC should not require direct relay of information in Automatic Crash Notification cases, or any other case
  - Oral relay works regardless of PSAP readiness
- FCC should not attempt to regulate “customer notifications” of auto makers

